

## **Monitoring of War Crimes Trials – Guarantee for the Process of Dealing with the Past and Sustainability of the Judicial Reform in Croatia**

Osijek, Zagreb, 4 September 2013

### ***Biweekly Report on War Crime Trials***<sup>1</sup>

#### **Two rapists sentenced to 12 years in prison each**

On 4 September 2013, the Osijek County Court's War Crimes Council rendered a non-final sentence for rape against members of the Dalj paramilitary Territorial Defence Ljubinko Radošević and Vojislav Grčić to 12 years in prison each.

The defendants were found guilty that they raped the 20-year old girl in August 1991 in the presence of her parents and two minor siblings in their family house. The 1st defendant Radošević was also found guilty that, on another occasion, he physically maltreated the mentioned family members of Croatian ethnicity. The 2nd defendant Grgić was also found guilty that he, together with now deceased person and one more unidentified TO member, raped the mentioned 20-year old girl nearby the train station in Dalj.

The defendants have been detained in the investigative prison since May 2012 and after the pronouncement of this verdict detention against them was extended.

#### **Podgorica: The sentence in total of only 12 years of imprisonment to four perpetrators who committed crime against Croatian civilians and war prisoners in the camp Morinj**

On 31 July 2013, the High Court in Podgorica sentenced again, in the third (second repeated) first-instance trial, the four accused perpetrators of crimes committed against Croatian civilians and war prisoners in the camp Morinj in Montenegro to low prison sentences of 4, 3 and 2 years.

Civil society organisation „Human Rights Action“ from Montenegro monitors the mentioned trial. It pointed out in its press release that such low prison sentences are a consequence of the unreasonably high importance the High Court has given to the mitigating circumstances in favour of the defendants (no prior convictions, married, have children, poor health) but did not take into account the aggravating circumstances (vulnerability (helplessness) of victims, a large number of injured parties, persistence in the commission of offences expressed through the commission of offences over a long period of time and continuous suffering of survived victims because of traumas).

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<sup>1</sup> Our previous Biweekly report was published on 11 July 2013. During the period of annual leaves, we did not publish any biweeklies. For that reason, we included in this Biweekly the developments in war crime trials which occurred during the second half of July and August 2013.

In the mentioned press-release, it was also mentioned that the general assessment of the Morinj case is that it represents the tendency of the judicially authorities of Montenegro to spare of responsibility those who were superior to direct perpetrators of criminal offences. The State Prosecutor's Office of Montenegro failed to treat the crimes in the camp Morinj as an organised system of ill-treatment of prisoners and to charge persons who were superior to direct perpetrators of the abuse.

## **New investigations by the Osijek County State Attorney's Office**

### **(a) Investigation against members of Territorial Defence (TO) and Militia of the so-called Krajina from Trpinja near Vukovar**

At the mid of July 2013, the Osijek County State Attorney's Office issued an order for investigation to be carried out against fifteen persons from the area of Trpinja near Vukovar. Out of this number nine persons have been apprehended due to a suspicion that they, in their capacity as members of TO Trpinja and Militia of the so-called SAO Krajina, unlawfully arrested, apprehended, incarcerated, physically, mentally and sexually abused and killed civilians and war prisoners.

With described actions, 12 civilians and at least 60 incarcerated Croatian defenders were killed and 14 persons sustained physical and mental injuries because of the torture.

These apprehensions in Trpinja stirred up a reaction by the Serb community representatives. The Vukovar Joint Municipality Council condemned the manner how the apprehension of suspects was carried out. It considered that it could have been conducted without any spectacular elements and demonstration of force. This Council also pointed out that such conduct could trigger a deterioration of already deteriorated inter-ethnic relations and a development of fear and insecurity among members of Serb community in the eastern part of the Republic of Croatia.

### **(b) Investigation against one person suspected of maltreatment in Erdut**

At the mid of July 2013, the Osijek County State Attorney's Office issued an order for investigation to be carried out against one person under suspicion that he, in his capacity as member of para-police section of the Erdut Militia of the so-called Krajina, during the questioning of two unlawfully arrested civilians on 22 November 1991 in Erdut, was hitting them with wooden sticks all over their body and limbs and inflicted them intense pain by pliers if he had not been satisfied with the answers provided by maltreated civilians.

The suspect is not available to the competent authorities of the Republic of Croatia.

## **Discontinued criminal proceedings against four JNA officers for the attack on Split and its surroundings**

After the prosecution dropped charges, the Split County Court discontinued criminal proceedings end of July 2013 against Nikola Zdravković, Dragan Tarbuk, Radovan Šetin and Risto Zekanović, who were JNA members indicted for the attack on Split and its surroundings in 1991.

Trial against the mentioned accused persons was conducted in their absence in 1993. In that trial, thirty two JNA officers and sub-officers were sentenced for the attack on Split and surrounding middle-Dalmatian area in which civilians were killed and injured and where extensive material damage was caused. Thirty one accused persons received mainly long prison sentences whereas amnesty act was applied in respect of the only available defendant i.e. criminal proceedings against him was discontinued in respect of the criminal offence of participation in the enemy's army. In 1994, however, the Supreme Court of the Republic of Croatia quashed the conviction against 17 defendants and modified the verdict rejecting the charge into acquittal against the only available defendant.

Retrial has still not been conducted.



During the 90's, members of Serb formations were almost exclusively prosecuted. Trials were very often conducted in an unprofessional and ethnically biased manner, mostly in absence of defendants. Approximately 80 % of sentenced persons were prosecuted *in absentia*. According to DORH data published in 2004, 602 persons were convicted for crimes committed between 1991 and 2004, and out of that number 464 persons were convicted in their absence.

In the court cases before county courts which are currently in the stage of investigation or main hearing, the defendants are unavailable to Croatian judiciary in vast majority. The fact that only few trial hearing are scheduled in absence of the defendants leads to a conclusion that the majority of cases are in an inactive status.

